

**REMARKS**

Claims 2, 8, 13-14, 18, 20 and 29 have been indicated as allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Claims 1, 3-7, 9-12, 15-17, 19, 21-28 and 30 are rejected. Claims 1, 3, 9, 16, 23, 24 and 30 have been amended. Claims 2, 13, 17-18 and 29 have been canceled. By this amendment, claims 1, 3-12, 14-16, 19-28 and 30 are currently pending in the subject application, and are presently under consideration. Favorable reconsideration of the application is requested in view of the amendments and comments herein.

**I. Amendments to the Specification**

The Specification has been amended to update the status of co-pending applications. No new matter has been added.

**II. Rejection of Claims 1, 16 and 23 under 35 U.S.C. 102(e)**

Claims 1, 16 and 23 have been rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent Pub. No. 2005/0251626 to Glasco (hereinafter, "Glasco"). Withdrawal of this rejection is respectfully requested for at least the following reasons.

Claim 1 has been amended to substantially incorporate the subject matter of claim 2, which was deemed to be allowable if rewritten in independent form. Accordingly, Applicant's representative respectfully submits that amended claim 1 is patentable.

Claim 16 has been amended to substantially incorporate the subject matter of claims 17 and 18, since claim 18 was deemed to be allowable if rewritten in independent form. Accordingly, Applicant's representative respectfully submits that amended claim 16 is patentable.

Claim 23 has been amended to substantially incorporate the subject matter of claim 29, which was deemed to be allowable if rewritten in independent form. Accordingly, Applicant's representative respectfully submits that amended claim 23 is patentable.

In view of the foregoing, claims 1, 16 and 23 are patentable. Thus, withdrawal of this rejection is respectfully requested.

**III. Rejection of Claims 9 and 10 under 35 U.S.C. 102(a)**

Claims 9 and 10 have been rejected under 35 U.S.C. 102(a) as being anticipated by Architecture and Design of AlphaServer GS320; Western Research Laboratory by Gharachorloo, et al. (hereinafter, "Gharachorloo"). Claim 9 has been amended to substantially incorporate the subject matter of claim 13, which was deemed to be allowable if rewritten in independent form. Accordingly, claim 9, as well as claim 10 depending therefrom, is patentable. Thus, withdrawal of this rejection is respectfully requested.

**IV. Rejection of Claims 5-6, 19 and 27-28 under 35 U.S.C. 103(a)**

Claims 5-6, 19 and 27-28 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Glasco in view of U.S. Patent Publication No. 2003/0217236 to Rowlands (hereinafter, "Rowlands"). Withdrawal of this rejection is respectfully requested for at least the following reasons.

Applicant's representative respectfully requests that the rejection of claims 5-6 be withdrawn. Claims 5-6 depend from claim 3, which was alleged to be made obvious by Glasco taken in view of Gharachorloo. The separate rejection of claim 5 thus appears improper since it does not include allege any teaching or suggestion of the features recited explicitly in claim 3 (now independent). Significantly, the Board of appeals specifically agreed that Glasco fails to any other node providing a response to the broadcast write back message (See Decision on Appeal, dated September 29, 2009, at page 9). Additionally, the rejection of claims 5 and 6 fails to include any mention of Gharachorloo or the rejection of claim 3 from which claims 5 and 6 depend. Thus, in rejecting claims 5-6, the Office Action does not provide any evidence that it would be obvious to one of ordinary skill in the art to combine and modify the teachings of Glasco, Gharachorloo and Rowlands in a manner that would teach one of ordinary skill in the art how to implement claims 5-6. Accordingly, withdrawal of the rejection of claims 5-6 is respectfully requested.

Claims 19 and 27-28 depend from amended claims 16 and 23. Accordingly, claims 19 and 27-28 are patentable for at least the same reasons as claims 16 and 23, and for the specific elements recited therein. Therefore, Applicant's representative respectfully submits that claims 19 and 27-28 are patentable.

In view of the foregoing, claims 5-6, 19 and 27-28 are patentable. Thus, withdrawal of this rejection is respectfully requested.

**V. Rejection of Claims 3-4, 7, 11, 12, 15, 17, 21-22, 24-25 and 30 under 35 U.S.C. 103(a)**

Claims 3-4, 7, 11, 12, 15, 17, 21-22, 24-25 and 30 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Glasco and Gharachorloo. Withdrawal of this rejection is respectfully requested for at least the following reasons.

Claim 3 has been rewritten in independent form. Additionally, claim 3 has been amended to clarify that each of at least two other nodes provides a response to a first node acknowledging receipt of a write-back broadcast by the first node. The amendments to claim 3 are supported by at least FIG. 4 and paragraph [0064] of the Specification. In rejecting claim 3, the Office Action contends that the top left column on page 4 (labeled as page 16) of Gharachorloo discloses the features of claim 3 (See Office Action, Page 6). The cited section of Gharachorloo discloses that a valid copy of data is maintained at an owner node until a home node acknowledges a write-back (See Gharachorloo, Sec. 3.2). However, Gharachorloo does not teach or suggest to one of ordinary skill in the art that at least two nodes provide a response to a first node acknowledging receipt of a write-back message broadcast by the first node, in contrast to amended claim 3. Instead, in Gharachorloo, only the home node acknowledges a write-back to the node that performed the write back to the home node (See e.g., Gharachorloo, Sec. 3.2).

In fact, Applicant's representative respectfully submits that Gharachorloo expressly teaches away from the system recited in amended claim 3. The Federal Circuit has held that a reference may be said to teach away when a person of ordinary skill, upon reading the reference, would be discouraged from following the path set out in the reference. *In re Goodwin*, 2009 U.S. App. Lexis 6914, 6916 (Fed. Cir. 2009), citing *In re Gurley*, 27 F.3d 551, 553 (Fed. Cir. 1994). Gharachorloo explicitly discloses that the disclosed protocol does not use invalidation-acknowledgement messages, thereby reducing the message count and resource occupancy (See Gharachorloo, Sec. 3.3, Par. 2, emphasis added). Thus, Applicant's representative respectfully submits that one of ordinary skill in the art, upon reading Gharachorloo, would be discouraged from providing, from each of at least two other nodes, a response to a first node acknowledging receipt of a write-back message broadcast by the first node. Additionally, it would not be

obvious to modify the teaching of Gharachorloo to operate according to claim 3 since the acknowledgement disclosed in Gharachorloo is to acknowledge a write back to a home node in the context of a different protocol (*e.g.*, for the GS320 architecture). Accordingly, Applicant's representative respectfully submits that Glasco taken in view of Gharachorloo teach away from the system recited in amended claim 3. Moreover, since the Office Action does not provide any other evidence sufficient to support a legal conclusion of obviousness with respect to claim 3, amended claim 3, as well as claims 4 and 7 depending therefrom, are patentable.

Claims 11, 12, 15, 17, 21-22 and 30 depend from amended claims 9, 16 and 23 and are patentable for at least the same reasons as claims 9, 16 and 23, and for the specific elements recited therein. Accordingly, claims 11, 12, 15, 17, 21-22 and 30 are patentable.

Additionally, claim 24 has been rewritten in independent form. For reasons similar to those explained with respect to amended claim 3, Glasco taken in view of Gharachorloo does not teach or suggest to one of ordinary skill in the art how to implement providing a response from each of the other nodes to acknowledge receipt of a source broadcast message at the other nodes. Moreover, since the Office Action does not provide any other evidence sufficient to support a legal conclusion of obviousness with respect to claim 24, Applicant's representative submits that claim 24, as well as claim 25 depending therefrom is patentable.

In view of the foregoing, claims 3-4, 7, 11, 12, 15, 17, 21-22, 24-25 and 30 are patentable. Thus, withdrawal of this rejection is respectfully requested.

#### **VI. Rejection of Claim 26 under 35 U.S.C. 103(a)**

Claim 26 has been rejected under 35 U.S.C. 103(a) as being unpatentable over Glasco and Gharachorloo in view of U.S. Patent No. 6,202,126 to Van Doren (hereinafter, "Van Doren"). Claim 26 depends from claim 23, and is patentable for at least the same reasons as claim 23, and for the specific elements recited therein. Moreover, in rejecting claim 26, the Office Action cites Van Doren solely for Van Doren's disclosure of retaining a copy of data until victim data has been written back to memory and until all probes have retrieved a copy of the data (See Office Action, Page 9, citing Col. 3, Lines 10-31 of Van Doren). However, the further addition of Van Doren does not make up for the aforementioned deficiencies of Glasco taken in

view of Gharachorloo. Accordingly, claim 26 is patentable, and withdrawal of this rejection is respectfully requested.

#### **VII. Allowable Subject Matter**

Claims 2, 8, 13-14, 18, 20 and 29 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Applicant's representative appreciates the indication of allowance of claims 2, 8, 13-14, 18, 20 and 29. As explained above, the features of claims 2, 13, 18 and 29 have been substantially incorporated into amended claims 1, 9, 16 and 23 and claims 2, 13, 18 and 29 have been canceled. Allowance of 1, 9, 16 and 23, as well as claims depending therefrom is respectfully requested.

#### **VIII. CONCLUSION**

In view of the foregoing remarks, Applicant respectfully submits that the present application, including claims 1, 3-12, 14-16, 19-28 and 30, is in condition for allowance. Applicant respectfully requests reconsideration of this application and that the application be passed to issue.

Should the Examiner have any questions concerning this paper, the Examiner is invited and encouraged to contact Applicant's undersigned attorney at (216) 621-2234, Ext. 106.

Fees for two new independent claims are to be charged to Deposit Account No. 08-2025. No additional fees should be due for this response. In the event any fees are due in connection with the filing of this document, the Commissioner is authorized to charge those fees to Deposit Account No. 08-2025.

I hereby certify that this correspondence is being transmitted to the U.S. Patent and Trademark Office via electronic filing on January 18, 2010.

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